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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *30 March 2009*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-31* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-4,6-11,14-26 and 28-31* is/are rejected.

7) ☒ Claim(s) *12,13,27* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicant's amendment filed on 03/30/2009 has been entered. Claims 1-31 are

still pending in this application, with claims 1, 20, and 29-31 being independent.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

3.   Claims 1-11, 14-26 and 28-31 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kogan et al. (Publication "Draft Technical Requirements on Outage

Measurement Requirements for Packet Networks" Provided in the IDS) in view of

Purpura (US Patent Publication No. 2003/0039261).

Regarding claim 1, Kogan et al teach a dependability measurement system comprising;

service-affecting event computation for analyzing performance parameters measured by the performance measurement means (In Page 7, lines 13-16, analyzing is to measure and collect data required in order to be able to report and store outage event, Fig. 1, Element);

equipment event measurement for monitoring network elements of the communications (Fig. 1, Network Management System) network for the occurrence of network element events (In Fig. 1, Network Management System receives failure events notification periodically and also, page 7, lines 6-11 and also, page 8, lines 24-26);

population calculator for determining components within the communications network (Fig. 1, Element) which are related to dependability metrics to be reported upon and calculating in-service time information for the components (On page 7, lines 6-11, objects/ components are either UP or Down, by knowing the downtime, UP time is going to be available);

dependability metric calculator (Fig. 1, Element) for calculating, analyzing and reporting dependability parameters and dependability metrics using information output from the service-affecting event computation means (In Page 7, lines 13-16, analyzing is to measure and collect data required in order to be able to report and store outage event, Fig. 1, Element), equipment event measurement means and population calculator means (On page 9, lines 23-31, detailed outage data is being monitored and recorded); and

a user interface (Fig. 1, Measurement Interface) for supplying the dependability

measurement system with system parameters and control information (In page 5, lines

10-16 talks about reporting failure events to NMS periodically. Also see page 4, lines

19-21); and

performance measurement (Fig. 1, Network Management System) for measuring

performance parameters (The outage event is reported to Network Management

System in Fig.1) in a communications network at sufficient frequency to detect service-

affecting failures (Outage data is sent to Network Management System periodically.

Also see page 9, lines 23-27 and also, page 8, lines 24-26) and time-of- occurrence (In

page 7, lines 13-16, one of the values for the data outage in a link is the threshold value

at the time of the outage), but fail to teach the measuring between a first location and a

second location. However, Purpura teaches the measuring between a first location and

a second location (P [0021] discloses the traffic control in communication between the

router and the ground equipment).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to modify a method of Kogan et al. to include the traffic

control management between two equipments disclosed by Purpura in order to

decrease the error rate and improve quality of the communication.

However, Kogan et al. does not specifically teach that the above respective

functions are performed by separate performance measurement means, service-

affecting event computation means, equipment event measurement means, population

calculator for determining means, and dependability metric calculator means. It is well

known in the art that the respective functions can be implemented in separate functional

modules.

Regarding claim 2, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. further teach a system wherein

the performance measurement means comprises means for providing performance

information

request (PIR) signaling between the first location and the second location in the

communications network (In page 5, Fig. 1, and also, lines 2-4 and Lines 10-17, the

goal is to prevent any degrading in performance and to do so, an agent sends the

outage measurements to the Network Management System).

Regarding claim 3, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 2, Kogan et al. further teach a system wherein

the means for providing PIR signaling uses packets in measuring performance

parameters (As disclosed in page 9, lines 11-12, the network is a packet network so the

signaling is going to be packet based).

Regarding claim 4, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. further teach a system wherein

the performance parameters to be measured provide a quantitative measure for

determining transmission performance (In page 5, lines 10-17 the agent reports the

outage events on the link periodically).

Regarding claim 6, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan further teach a system wherein the

performance measurement further comprises means for storing measured performance parameters (In page 5, lines 10-17 the agent reports stores the outage events on the link periodically). However, Kogan et al. in view of Purpura do not specifically teach that the above respective functions are performed by separate performance measurement means, service-affecting event computation means, equipment event measurement means, population calculator for determining means, and dependability metric calculator means. It is well known in the art that the respective functions can be implemented in separate functional modules.

Regarding claim 7, (Currently amended) Kogan et al. in view of Purpura teach a dependability measurement system according to claim 6, Kogan et al. teach a system wherein the means for storing (Fig. 1, Data Storage in the Element) measured performance parameters is configured to store time and date information corresponding to at least one of the time of measurement of the measured performance parameters and the time of storage of the measured performance parameters (In page 5, lines 10-17 the agent reports stores the outage events on the link periodically. And also see Appendix B on page 14, in the Event Time section).

Regarding claim 8, Kogan et al. in view of Purpura teach a dependability measurement system according to claim 1, Purpura teaches a system wherein the first location and the second location define end points of a service path between first and second network elements (P [0021] discloses the traffic control in communication between the router and the ground equipment).

Regarding claim 9, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. teach a system wherein the first

location and the second location define end points of a service path between an input

and output of a single network element (In Fig. 1, there are two Notification and Poll

ports showing for the Element).

    Regarding claim 10, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. teach a system wherein the

service-affecting event computation comprises analyzing measured performance

parameters to generate dependability parameter information (In Page 7, lines 13-16,

analyzing is to measure and collect data required in order to be able to report and store

outage event, Fig. 1, Element). However, Kogan et al. in view of Purpura do not

specifically teach that the above respective functions are performed by separate

performance measurement means, service-affecting event computation means,

equipment event measurement means, population calculator for determining means,

and dependability metric calculator means. It is well known in the art that the respective

functions can be implemented in separate functional modules.

    Regarding claim 11, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 10, Kogan et al. teach a system wherein the

service-affecting event computation further comprises storing dependability parameter

information (In Page 7, lines 13-16, analyzing is to measure and collect data required in

order to be able to report and store outage event, Fig. 1, Element). However, Kogan et

al. in view of Purpura do not specifically teach that the above respective functions are

performed by separate performance measurement means, service-affecting event

computation means, equipment event measurement means, population calculator for

determining means, and dependability metric calculator means. It is well known in the

art that the respective functions can be implemented in separate functional modules.

Regarding claim 14, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. teach a system wherein a

network element event is a network element failure event (Page 5, lines 12-14 and Fig.

1).

Regarding claim 15, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. teach a system wherein the

equipment event measurement means comprises (Fig. 1, Element and NMS);

monitoring a network element for an alarm generated in response to a network

element event (See page 9, lines 11-13, the automated report of the outages in the

packet network is same as an alarm);

collecting user-specified information relating to the network element event (In

Fig. 1, the notification message contains information regarding the failure event); and

storing user-specified information relating to the network element event (See

page 5, lines 11-17 and also, Data Store in Element shows in Fig. 1). However, Kogan

et al. in view of Purpura do not specifically teach that the above respective functions are

performed by separate monitoring means, collecting user-specified information means,

and storing user-specified information means. It is well known in the art that the

respective functions can be implemented in separate functional modules.

 Regarding claim 16, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. teach a system wherein the

dependability metric calculator (Fig. 1, Element) comprises information correlation

correlating information from the service-affecting event computation (In Page 7, lines

13-16, analyzing is to measure and collect data required in order to be able to report

and store outage event, Fig. 1, Element) and the equipment event measurement (On

page 9, lines 23-31, detailed outage data is being monitored and recorded). However,

Kogan et al. in view of Purpura do not specifically teach that the above respective

functions are performed by separate performance measurement means, service-

affecting event computation means, equipment event measurement means, population

calculator for determining means, and dependability metric calculator means. It is well

known in the art that the respective functions can be implemented in separate functional

modules.

 Regarding claim 17, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 16, wherein the dependability metric calculator

further comprises calculating (Fig. 1, Element) and storing dependability metrics based

on information output from the information correlation means (In Page 7, lines 13-16,

analyzing is to measure and collect data required in order to be able to report and store

outage event, Fig. 1, Element) and the in-service time information from the population

calculator (On page 9, lines 23-31, detailed outage data is being monitored and

recorded). However, Kogan et al. in view of Purpura do not specifically teach that the

above respective functions are performed by separate performance measurement

means, service-affecting event computation means, equipment event measurement

means, population calculator for determining means, and dependability metric calculator

means. It is well known in the art that the respective functions can be implemented in

separate functional modules.

Regarding claim 18, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. further teach a system wherein

the dependability parameters are at least one of event start time (Fig. 4, Start Time),

event end time (Fig. 4, End Time), event duration (Fig. 4, Outage Duration),

identification of the component experiencing an event (Element in Fig. 1 and also,

Object ID in page 7, line 26), classification of type of the event (page 7, line 26, Event

Type), start of repair time (Fig. 6, Beginning of TTR), end of repair time (Fig. 6, End of

TTR), duration of repair time (Fig. 6, TTR).

Regarding claim 19, Kogan et al. in view of Purpura teach a dependability

measurement system according to claim 1, Kogan et al. further teach a system wherein

the dependability metrics are at least one of individual service outage downtime,

individual service outage frequency, individual service failure rate, network element

failure mode outage downtime, network element failure mode outage frequency, mean-

time-to-restore service, intrinsic mean-time-to-repair (Fig. 6 and also Application

example 2 on page 13), and total mean-time-to-repair.

Regarding claim 20, (Currently amended) Kogan et al. teach a method for use

in a dependability measurement system of a communications network comprising;

analyzing measured performance parameters (In Page 7, lines 13-16, analyzing

is to measure and collect data required in order to be able to report and store outage

event, Fig. 1, Element, also for further explanation, page 7, lines 5-28 discloses the

object monitoring and reporting);

monitoring network elements of the communications network (Fig. 1, Network

Management System, also for further explanation, page 7, lines 5-28 discloses the

object monitoring and reporting functions) for the occurrence of network element events

(In Fig. 1, Network Management System receives failure events notification periodically

and also, page 7, lines 6-11 and also, page 8, lines 24-26);

determining equipment within the communications network (Fig. 1, NMS and

Element, also for further explanation, page 7, lines 5-28 discloses the object monitoring

and reporting) related to dependability metrics to be reported upon and calculating in-

service time information for the equipment (On page 7, lines 6-11, objects/ components

are either UP or Down, by knowing the downtime, UP time is going to be available, also

see Fig. 4);

calculating, analyzing and reporting dependability parameters and dependability

metrics using information resulting from analyzing measured performance parameters

(In Page 7, lines 13-16, analyzing is to measure and collect data required in order to be

able to report and store outage event, Fig. 1, Element), monitoring network element

events and calculating the in-service time information for the equipment related to

dependability metrics to be reported upon (On page 9, lines 23-31, detailed outage data

is being monitored and recorded); but fail to teach measuring performance parameters

between a first location and a second location in a communications network. However,

Purpura teaches measuring performance parameters between a first location and a

second location in a communications network (P [0021] discloses the traffic control in

communication between the router and the ground equipment).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to modify a method of Kogan et al. to include the traffic

control management between two equipments disclosed by Purpura in order to

decrease the error rate and improve quality of the communication.

Regarding claim 21, Kogan et al. in view of Purpura teach a method according

to claim 20, Kogan et al. further teach a method further comprising defining

dependability measurement system parameters (In Fig. 6 and also Application example

2 on page 13, time to repair is defined or).

Regarding claim 22, Kogan et al. in view of Purpura teach a method according

to claim 21, Kogan et al. further teach a method wherein the dependability

measurement system parameters are at least one of performance measurement

parameters, dependability analysis parameters and dependability report parameters

(On page 7, lines 26-29, report parameters are disclosed).

Regarding claim 23, Kogan et al. in view of Purpura teach a method according

to claim 20, Kogan et al. further teach a method wherein the measuring performance

parameters step further comprises storing measured performance parameter results

(On page 5, lines 10-17 and page 7, lines 26-29 measuring parameters are being

stored).

Regarding claim 24, Kogan et al. in view of Purpura teach a method according

to claim 20, kogan et al. further teach a method wherein the measuring performance

parameters step comprises performing PIR signaling between the first location and the

second location in the communications network (In page 5, Fig. 1, and also, lines 2-4

and Lines 10-17, the goal is to prevent any degrading in performance and to do so, an

agent sends the outage measurements to the Network Management System, also,

polling function acts as PIR signalling).

Regarding claim 25, Kogan et al. in view of Purpura teach a method according

to claim 20, Kogan et al. further teach a method wherein the analyzing measured

performance parameters step comprises analyzing measured performance parameters

to generate dependability parameters (In Page 7, lines 13-16, analyzing is to measure

and collect data required in order to be able to report and store outage event, Fig. 1,

Element).

Regarding claim 26, Kogan et al. in view of Purpura teach a method according

to claim 20, Kogan et al. further teach a method wherein the analyzing measured

performance parameters step further comprises storing dependability parameters (In

Page 7, lines 13-16, analyzing is to measure and collect data required in order to be

able to report and store outage event, Fig. 1, Element).

Regarding claim 28, Kogan et al. in view of Purpura teach a method according

to claim 20, Kogan et al. further teach a method wherein the monitoring individual

network (Fig. 2 and 3) elements step comprises;

monitoring, a network element for an alarm generated in response to a network

element event (See page 9, lines 11-13, the automated report of the outages in the

packet network is same as an alarm);

collecting information relating to the network element event (In Fig. 1, the

notification message contains information regarding the failure event and also, Fig. 2

and 3); and

storing information relating to the network element event (Fig. 1, Data Store

within Element).

Regarding claim 29, (Currently amended) Kogan et al. teach a

communications network capable of operating a dependability measurement system,

the communications network comprising:

a plurality of network elements (Fig. 2 and 3, Measurement Agents and NMS)

comprising:

service-affecting event computation (In Page 7, lines 13-16, analyzing is to

measure and collect data required in order to be able to report and store outage event,

Fig. 1, Element) for analyzing performance parameters measured by the performance

measurement (In Page 7, lines 13-16, analyzing is to measure and collect data required

in order to be able to report and store outage event, Fig. 1, Element); and

equipment event measurement (Fig. 1, NMS and Element) for monitoring

network elements of the communications network (Fig. 1, Network Management

System) for the occurance of network element events (In Fig. 1, Network Management

System receives failure events notification periodically and also, page 7, lines 6-11 and

also, page 8, lines 24-26);

an operation service system comprising:

population calculator for determining components within the communications network which are related to dependability metrics to be reported upon and calculating in-service time information for the components (On page 7, lines 6-11, objects/ components are either UP or Down, by knowing the downtime, UP time is going to be available);and

dependability metric calculator (Fig. 1, Element), for calculating, analyzing and reporting dependability parameters and dependability metrics using information output from the service-affecting event computation (In Page 7, lines 13-16, analyzing is to measure and collect data required in order to be able to report and store outage event, Fig. 1, Element), equipment event measurement means and population calculator (On page 9, lines 23-31, detailed outage data is being monitored and recorded), the operation service system having a memory storage device (In Fig. 1, the Data Store within Element) and an user interface (in Fig. 1, Measurement Interface); and

performance measurement (Fig. 1, NMS and Element) in a communications network at sufficient frequency to detect service-affecting failures (Outage data is sent to Network Management System periodically. Also see page 9, lines 23-27 and also, page 8, lines 24-26) and time-of-occurrence (In page 7, lines 13-16, one of the values for the data outage in a link is the threshold value at the time of the outage) but fail to teach communication links established between the plurality of network elements;

measuring performance parameters between a first location and a second location ;

a communication link between the plurality of network elements and the

operation service system. However, Purpura teaches communication links established

between the plurality of network elements (P [0021] discloses the traffic control in

communication between the router and the ground equipment);

measuring performance parameters between a first location and a second

location (P [0021] discloses the traffic control in communication between the router and

the ground equipment);

a communication link between the plurality of network elements and the operation

service system (P [0021] discloses the traffic control in communication between the

router and the ground equipment).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to modify a method of Kogan et al. to include the traffic

control management between two equipments disclosed by Purpura in order to

decrease the error rate and improve quality of the communication.

However, Kogan et al. does not specifically teach that the above respective

functions are performed by separate performance measurement means, service-

affecting event computation means, equipment event measurement means, population

calculator for determining means, and dependability metric calculator means. It is well

known in the art that the respective functions can be implemented in separate functional

modules.

Regarding claim 30, (Currently amended) Kogan et al. teach a computer

readable medium having computer readable program code embodied therein for

execution by a computer processor for operating an operational service system of a

dependability measurement system (Fig. 1, the Element and Network Management

System), the computer readable code comprising:

code for interfacing with network elements that monitor individual network

elements for an occurrence of a network element event and collect and store network

element event information (In Fig. 1, interfaces between NMS and the Element, page 5,

lines 10-17 that discloses reporting failure events to NMS periodically, and also, Fig. 2

and 3 that show number of Elements connected to the NMS);

code for calculating dependability parameters based on network event

information and network element event information (measurement is determined inside

the Elements and then send to NMS via the links, page 5, lines 10-23 and also, the

event information stored. See Fig. 4 and page 7, lines 26-29);

code for calculating dependability metrics based on measured network events

and network element events over a user-defined time period (both periodic updates and

polling disclosed in page 8 lines 20-27, can be done as user defined also, see page 4,

lines 19-21); and

code reporting dependability parameters and dependability metrics (both periodic

updates and polling disclosed in page 8 lines 20-27, can be done as user defined);

code for interfacing with network elements (Fig. 1, the interfaces between

Network Management System and the Element) but fail to teach measure point-to-point

performance parameters along a service path between at least two locations to

determine an occurrence of a network event and collect and store network event

information. However, Purpura teach measure point-to-point performance parameters

along a service path between at least two locations to determine an occurrence of a

network event and collect and store network event information (P [0021] discloses the

traffic control in communication between the router and the ground equipment).

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to modify a method of Kogan et al. to include the traffic

control management between two equipments disclosed by Purpura in order to

decrease the error rate and improve quality of the communication.

However, Kogan et al. does not specifically teach that the above respective

functions are performed by separate performance measurement means, service-

affecting event computation means, equipment event measurement means, population

calculator for determining means, and dependability metric calculator means. It is well

known in the art that the respective functions can be implemented in separate functional

modules.

Regarding claim 31,(Currently amended) Kogan et al. teach a computer

readable medium having computer readable program code embodied therein for

execution by a computer processor for use in a network element as part of a

dependability measurement

system, the computer readable code means comprising:

code for storing the measured point-to- point performance parameters (In Fig. 1,

Data Store within the Element);

code for analyzing the measured point-to-point performance parameters and

calculating dependability parameters (Failure events reports are sent to NMS

periodically to be able to analyze and calculate the outage measurement. See page 5,

lines 10-17 and 18-23);

code for storing the dependability parameters (Fig. 1, Data Store within the

Element);

code for monitoring the network element for an occurrence of a network element

event (In Fig. 1, Network Management System receives failure events notification

periodically and also, page 7, lines 6-11 and also, page 8, lines 24-26);

code for storing user-defined information regarding the network element event

(See page 4, lines 19-21); and

code for interfacing with an operational service system to supply dependability

parameters based on network events and network element events (Fig. 1,

Measurement Interface).

code for measuring point-to-point performance parameters (Fig. 1, 2, and 3) but

fail to teach a service path between at least two locations to determine an occurrence of

a network event. However, Purpura teaches a service path between at least two

locations to determine an occurrence of a network event.

Therefore, it would have been obvious for one of ordinary skill in the art at the

time the invention was made to modify a method of Kogan et al. to include the traffic

control management between two equipments disclosed by Purpura in order to

decrease the error rate and improve quality of the communication (P [0021] discloses

the traffic control in communication between the router and the ground equipment).

However, Kogan et al. does not specifically teach that the above respective

functions are performed by separate performance measurement means, service-

affecting event computation means, equipment event measurement means, population

calculator for determining means, and dependability metric calculator means. It is well

known in the art that the respective functions can be implemented in separate functional

modules.

4.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kogan et

al. (Publication "Draft Technical Requirements on Outage Measurement Requirements

for Packet Networks" Provided in IDS) in view of Tanaka et al. (US Patent Publication

No. 20010053130)

Regarding claim 5, Kogan et al. teach a dependability measurement system

according to claim 1, but fail to teach dependability measurement system wherein the

performance parameters to be measured are at least one of packet delay, jitter, and

integrity. However, Tanaka et al. teach dependability measurement system wherein the

performance parameters to be measured are at least one of packet delay, jitter, and

integrity (Paragraph [0010], lines 7-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the dependability measurement system of Kogan

et al. to include at least one of packet delay, jitter, and integrity disclosed by Tanaka et

al. in order to be able to measure the performance parameters.

Response to Arguments

5.   In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., page 4, line 5 of the applicant response, "measuring performance parameters

between the router and ground equipment") are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments filed 03/30/2009 have been fully considered but they are

not persuasive. On page 4 of the Applicant's response, the Applicant argued that the

prior art of record fail to disclose "determining components within the communications

network which are related to dependability metrics to be reported upon" of claim 1. The

Examiner respectfully disagrees. As shown in Fig. 1 of Kogan and page 7, lines 1-16,

outage monitoring and reporting is presented. The dependability metrics can be

interpreted as components being up or down.

On page 5 of the Applicant's response, the Applicant argued that the prior art of

record fail to disclose "a user interface for supplying the dependability measurement

system with system parameters and control information", of claim 1. The Examiner

respectfully disagrees. As shown in page 5, lines 10-17 and Fig. 1 of the Kogan, the

reporting of failure events is provided to the NMS periodically. The interaction between

the measuring element and NMS through two interfaces one being an SNMP MIB and

the other a control interface for configuration and management commands.

On page 5 of Applicant's response, the Applicant argued that Kogan et al. does not disclose all the functionality that each of the "means" is configured to provide, and as such, Applicant submits that it would not be obvious to provide the means to implement a functionality that is not disclosed. The Examiner respectfully disagrees. However, Kogan et al. does not explicitly teach the respective functions are performed by separate performance measurement means, service-affecting event computation means, equipment event measurement means, population calculator for determining means, and dependability metric calculator means. It is well known in the art that the respective functions can be implemented in separate functional modules.

On page 6 of Applicant's response, the Applicant argued that the prior art of record fail to disclose "performance measurement means for measuring performance parameters between a first location and a second location" of claim 1. The Examiner respectfully disagrees. As shown in Fig. 1 of Kogan, the communication such as failure report is being presented between two devices. Further more, Purpura in paragraph [0021] discloses the traffic control function in communication between the two devices. Combing the two references is possible for the fact that failure events report of Kogan can be utilized in the traffic control management.

All other previously rejected claims maintain their rejection due to the above explanation.

Allowable Subject Matter

Claims 12, 13, and 27 are objected to as being dependent upon a rejected base claim,

but would be allowable if rewritten in independent form including all of the limitations of

the base claim and any intervening claims.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to NIMA MAHMOUDZADEH whose telephone number is

(571)270-3527. The examiner can normally be reached on Monday - Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chirag G. Shah can be reached on (571) 272-3144. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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/NIMA MAHMOUDZADEH/
Examiner, Art Unit 2419

/Gregory B Sefcheck/
Primary Examiner, Art Unit 2419
6-30-2009